

HOUSE BILL NO. 146

INTRODUCED BY J. SHOCKLEY

BY REQUEST OF THE DEPARTMENT OF CORRECTIONS

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE YOUTH COURT ACT TO GENERALLY REVISE LAWS RELATING TO THE DETENTION AND PLACEMENT OF YOUTH; ~~CHANGING THE MEMBERSHIP OF YOUTH PLACEMENT COMMITTEES; CREATING AN INTERVENTION PROGRAM FOR JUVENILE DELINQUENTS; PROVIDING A STATUTORY APPROPRIATION;~~ AMENDING SECTIONS 17-7-502, 41-5-103, ~~41-5-121, 41-5-122, 41-5-123, 41-5-124,~~ 41-5-203, ~~41-5-205,~~ 41-5-206, ~~41-5-1512, 41-5-1513, 52-5-109,~~ AND 52-5-129, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

~~Section 1.~~ Section 17-7-502, MCA, is amended to read:

~~"17-7-502. Statutory appropriations -- definition -- requisites for validity.~~ (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

~~(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:~~

~~(a) The law containing the statutory authority must be listed in subsection (3).~~

~~(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.~~

~~(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 3-5-901; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-23-706; 15-31-702; 15-34-115; 15-35-108; 15-36-324; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-406; 16-1-411; 17-3-106; 17-3-212; 17-3-222; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-6-709; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 20-8-107; 20-26-1503; 22-3-1004; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; [Section 16] [SECTION 21]; 42-2-105; 44-12-206; 44-13-102; 50-4-623; 53-6-703; 53-24-206; 67-3-205; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313;~~



1 ~~77-1-505; 80-2-222; 80-4-416; 80-11-518; 81-5-111; 82-11-161; 87-1-513; 90-3-1003; 90-6-710; and~~
 2 ~~90-9-306.~~

3 ~~—————(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,~~
 4 ~~paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued~~
 5 ~~pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of~~
 6 ~~Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as~~
 7 ~~determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the~~
 8 ~~bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to~~
 9 ~~sec. 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for~~
 10 ~~supplemental benefit; pursuant to Ch. 422, L. 1997, the inclusion of 15-1-111 terminates on July 1,~~
 11 ~~2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of~~
 12 ~~19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability~~
 13 ~~is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates July 1,~~
 14 ~~2014; and pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, the inclusion of 15-35-108 and 90-6-710~~
 15 ~~terminates June 30, 2005.)"~~

16

17 **Section 1.** Section 41-5-103, MCA, is amended to read:

18 **"41-5-103. Definitions.** As used in the Montana Youth Court Act, unless the context requires
 19 otherwise, the following definitions apply:

20 (1) "Adult" means an individual who is 18 years of age or older.

21 (2) "Agency" means any entity of state or local government authorized by law to be responsible
 22 for the care or rehabilitation of youth.

23 (3) "Assessment officer" means a person who is authorized by the court to provide initial intake
 24 and evaluation for a youth who appears to be in need of intervention or an alleged delinquent youth.

25 (4) "Commit" means to transfer ~~to~~ legal custody of a youth to the department or to the youth
 26 court.

27 (5) "Correctional facility" means a public or private, PHYSICALLY SECURE residential facility ~~used for~~
 28 ~~the placement of delinquent youth or individuals convicted of criminal offenses~~ UNDER CONTRACT WITH THE
 29 DEPARTMENT AND OPERATED SOLELY FOR THE PURPOSE OF HOUSING ADJUDICATED DELINQUENT YOUTH.

30 (6) "Court", when used without further qualification, means the youth court of the district court.

1 (7) "Criminally convicted youth" means a youth who has been convicted in a district court
2 pursuant to 41-5-206.

3 (8) "Custodian" means a person, other than a parent or guardian, to whom legal custody of the
4 youth has been given but does not include a person who has only physical custody.

5 (9) "Delinquent youth" means a youth who is adjudicated under formal proceedings under the
6 Montana Youth Court Act as a youth:

7 (a) who has committed an offense that, if committed by an adult, would constitute a criminal
8 offense; or

9 (b) who has been placed on probation as a delinquent youth or a youth in need of intervention and
10 who has violated any condition of probation.

11 (10) "Department" means the department of corrections provided for in 2-15-2301.

12 (11) "Department records" means information or data, either in written or electronic form,
13 maintained by the department pertaining to youth who are committed ~~to the department~~ under
14 41-5-1512(3) or 41-5-1513(1)(b) or (1)(c) or who are under parole supervision. Department records do
15 not include information provided by the department to the department of public health and human services'
16 management information system.

17 (12) "Detention" means the holding or temporary placement of a youth in the youth's home under
18 home arrest or in a facility other than the youth's own home for:

19 (a) the purpose of ensuring the continued custody of the youth at any time after the youth is taken
20 into custody and before final disposition of the youth's case;

21 (b) contempt of court or violation of a valid court order; or

22 (c) violation of a youth parole agreement.

23 (13) "Detention facility" means a physically restricting facility designed to prevent a youth from
24 departing at will. The term includes a youth detention facility, short-term detention center, and regional
25 detention facility.

26 (14) "Emergency placement" means placement of a youth in a youth care facility for less than 45
27 days to protect the youth when there is no alternative placement available.

28 ~~(14)~~(15) "Family" means the parents, guardians, legal custodians, and siblings or other youth with
29 whom a youth ordinarily lives.

30 ~~(15)~~(16) "Final disposition" means the implementation of a court order for the disposition or

1 placement of a youth as provided in 41-5-1422, 41-5-1503, 41-5-1504, 41-5-1512, 41-5-1513, and
2 41-5-1522 through 41-5-1525.

3 ~~(16)~~(17) "Foster home" means a private residence licensed by the department of public health and
4 human services for placement of a youth.

5 ~~(17)~~(18) "Guardian" means an adult:

6 (a) who is responsible for a youth and has the reciprocal rights, duties, and responsibilities with
7 the youth; and

8 (b) whose status is created and defined by law.

9 ~~(18)~~(19) "Habitual truancy" means recorded absences of 10 days or more of unexcused absences
10 in a semester or absences without prior written approval of a parent or a guardian.

11 ~~(19)~~(20) "Holdover" means a room, office, building, or other place approved by the board of crime
12 control for the temporary detention and supervision of youth in a physically unrestricting setting for a
13 period not to exceed 24 hours while the youth is awaiting a probable cause hearing, release, or transfer
14 to an appropriate detention or shelter care facility. The term does not include a jail.

15 ~~(20)~~(21) "Jail" means a facility used for the confinement of adults accused or convicted of criminal
16 offenses. The term includes a lockup or other facility used primarily for the temporary confinement of
17 adults after arrest but does not include a collocated juvenile detention facility that complies with 28 CFR,
18 part 31.

19 ~~(21)~~(22) "Judge", when used without further qualification, means the judge of the youth court.

20 ~~(22)~~(23) "Juvenile home arrest officer" means a court-appointed officer administering or
21 supervising juveniles in a program for home arrest, as provided for in Title 46, chapter 18, part 10.

22 ~~(23)~~(24) "Law enforcement records" means information or data, either in written or electronic
23 form, maintained by a law enforcement agency, as defined in 7-32-201, pertaining to a youth covered by
24 this chapter.

25 ~~(24)~~(25) (a) "Legal custody" means the legal status created by order of a court of competent
26 jurisdiction that gives a person the right and duty to:

27 (i) have physical custody of the youth;

28 (ii) determine with whom the youth shall live and for what period;

29 (iii) protect, train, and discipline the youth; and

30 (iv) provide the youth with food, shelter, education, and ordinary medical care.

1 (b) An individual granted legal custody of a youth shall personally exercise the individual's rights
2 and duties as guardian unless otherwise authorized by the court entering the order.

3 ~~(25)~~(26) "Necessary parties" includes the youth and the youth's parents, guardian, custodian, or
4 spouse.

5 ~~(26)~~(27) "Parent" means the natural or adoptive parent but does not include a person whose
6 parental rights have been judicially terminated, nor does it include the putative father of an illegitimate
7 youth unless the putative father's paternity is established by an adjudication or by other clear and
8 convincing proof.

9 ~~(27)~~(28) "Probable cause hearing" means the hearing provided for in 41-5-332.

10 ~~(28)~~(29) "Regional detention facility" means a youth detention facility established and maintained
11 by two or more counties, as authorized in 41-5-1804.

12 ~~(29)~~(30) "Restitution" means payments in cash to the victim or with services to the victim or the
13 general community when these payments are made pursuant to a consent adjustment, consent decree,
14 or other youth court order.

15 ~~(30)~~(31) "Running away from home" means that a youth has been reported to have run away from
16 home without the consent of a parent or guardian or a custodian having legal custody of the youth.

17 ~~(31)~~(32) "Secure detention facility" means a public or private facility that:

18 (a) is used for the temporary placement of youth or individuals accused or convicted of criminal
19 offenses or as a sanction for contempt of court, violation of a parole agreement, or violation of a valid
20 court order; and

21 (b) is designed to physically restrict the movements and activities of youth or other individuals held
22 in lawful custody of the facility.

23 ~~(32)~~(33) "Serious juvenile offender" means a youth who has committed an offense that would be
24 considered a felony offense if committed by an adult and that is an offense against a person, an offense
25 against property, or an offense involving dangerous drugs.

26 ~~(33)~~(34) "Shelter care" means the temporary substitute care of youth in physically unrestricting
27 facilities.

28 ~~(34)~~(35) "Shelter care facility" means a facility used for the shelter care of youth. The term is
29 limited to the facilities enumerated in ~~41-5-344~~ 41-5-347.

30 ~~(35)~~(36) "Short-term detention center" means a detention facility licensed by the department for

1 the temporary placement or care of youth, for a period not to exceed 10 days excluding weekends and
2 legal holidays, pending a probable cause hearing, release, or transfer of the youth to an appropriate
3 detention facility, youth assessment center, or shelter care facility.

4 ~~(36)~~(37) "State youth correctional facility" means ~~a residential facility used for the placement and~~
5 ~~rehabilitation of delinquent youth, such as the Pine Hills youth correctional facility in Miles City or the~~
6 Riverside youth correctional facility in Boulder.

7 ~~(37)~~(38) "Substitute care" means full-time care of youth in a residential setting for the purpose of
8 providing food, shelter, security and safety, guidance, direction, and, if necessary, treatment to youth who
9 are removed from or are without the care and supervision of their parents or guardians.

10 ~~(38)~~(39) "Victim" means:

11 (a) a person who suffers property, physical, or emotional injury as a result of an offense
12 committed by a youth that would be a criminal offense if committed by an adult;

13 (b) an adult relative of the victim, as defined in subsection ~~(38)(a)~~ (39)(a), if the victim is a minor;
14 and

15 (c) an adult relative of a homicide victim.

16 ~~(39)~~(40) "Youth" means an individual who is less than 18 years of age without regard to sex or
17 emancipation.

18 ~~(40)~~(41) "Youth assessment" means a multidisciplinary assessment of a youth as provided in
19 41-5-1201.

20 ~~(41)~~(42) "Youth assessment center" means a staff-secured location that is licensed by the
21 department of public health and human services to hold a youth for up to 10 days for the purpose of
22 providing an immediate and comprehensive community-based youth assessment to assist the youth and
23 the youth's family in addressing the youth's behavior.

24 ~~(42)~~(43) "Youth care facility" has the meaning provided in 41-3-1102.

25 ~~(43)~~(44) "Youth court" means the court established pursuant to this chapter to hear all proceedings
26 in which a youth is alleged to be a delinquent youth, a youth in need of intervention, or a youth in need
27 of care and includes the youth court judge, probation officers, and assessment officers.

28 ~~(44)~~(45) "Youth court records" means information or data, either in written or electronic form,
29 maintained by the youth court pertaining to a youth under jurisdiction of the youth court and includes
30 reports of preliminary inquiries, petitions, motions, other filed pleadings, court findings, verdicts, orders

1 and decrees, youth assessment materials, predispositional studies, and supervision records of probationers.
 2 Youth court records do not include information provided by the youth court to the department of public
 3 health and human services' management information system.

4 ~~(45)~~(46) "Youth detention facility" means a secure detention facility licensed by the department
 5 for the temporary substitute care of youth that is:

- 6 (a) (i) operated, administered, and staffed separately and independently of a jail; or
- 7 (ii) a collocated secure detention facility that complies with 28 CFR, part 31; and
- 8 (b) used exclusively for the lawful detention of alleged or adjudicated delinquent youth or as a
 9 sanction for contempt of court, violation of a parole agreement, or violation of a valid court order.

10 ~~(46)~~(47) "Youth in need of care" has the meaning provided for in 41-3-102.

11 ~~(47)~~(48) "Youth in need of intervention" means a youth who is adjudicated as a youth and who
 12 commits an offense prohibited by law that if committed by an adult would not constitute a criminal
 13 offense, including but not limited to a youth who:

- 14 (a) violates any Montana municipal or state law regarding alcoholic beverages;
- 15 (b) continues to exhibit behavior, including running away from home or habitual truancy, beyond
 16 the control of the youth's parents, foster parents, physical custodian, or guardian despite the attempt of
 17 the youth's parents, foster parents, physical custodian, or guardian to exert all reasonable efforts to
 18 mediate, resolve, or control the youth's behavior; or
- 19 (c) has committed any of the acts of a delinquent youth but whom the youth court, in its
 20 discretion, chooses to regard as a youth in need of intervention."

21

22 ~~Section 2. Section 41-5-121, MCA, is amended to read:~~

23 ~~"41-5-121. Youth placement committees -- composition. (1) In each judicial district, the
 24 department youth court shall establish a youth placement committee for the purposes of:~~

25 ~~(a) recommending an appropriate placement of a youth referred to the youth court or the
 26 department under 41-5-1512 and 41-5-1513; or~~

27 ~~(b) recommending available community services or alternative placements whenever a change is
 28 required in the placement of a youth who is currently in the custody of the department under 41-5-1512
 29 or 41-5-1513. However, the committee may not substitute its judgment for that of the superintendent of
 30 a state youth correctional facility regarding the discharge of a youth from the facility.~~

1 ~~———(2) (a) The committee consists of not less than five members and must include persons who are~~
2 ~~knowledgeable about the youth, treatment and placement options, and other resources appropriate to~~
3 ~~address the needs of the youth.~~

4 ~~———(b) Members may~~ The committee must include:

5 ~~———(a)(i) two representatives of a juvenile parole officer employed by the department;~~
6 ~~———(b)(ii) a representative of the department of public health and human services;~~
7 ~~———(c)(iii) either the chief probation officer or the youth's probation officer~~ or the chief probation
8 officer's designee, who is the presiding officer of the committee;
9 ~~———(d)(iv) a mental health professional; and~~

10 ~~———(v) if an Indian youth is involved, a person, preferably an Indian, knowledgeable about Indian~~
11 culture and Indian family matters.

12 ~~———(e)(c) The committee may include:~~

13 ~~———(i) a representative of a school district located within the boundaries of the judicial district who~~
14 ~~must have personal~~ has ~~knowledge of and experience with the youth;~~

15 ~~———(f) if an Indian child or children are involved, someone, preferably an Indian person, knowledgeable~~
16 ~~about Indian culture and family matters;~~

17 ~~———(g)(ii) a~~ the youth's ~~parent or guardian; and~~

18 ~~———(h)(iii) a youth services provider; and~~

19 ~~———(iv) the youth's probation officer.~~

20 ~~———(3) Committee members serve without compensation.~~

21 ~~———(4) Notwithstanding the provisions of 41-5-123, the committee may be convened by the~~
22 ~~department or the probation officer of the youth court.~~

23 ~~———(5) If a representative of the school district within the boundaries of which the youth is~~
24 ~~recommended to be placed and will be attending school is not included on the committee, the person who~~
25 ~~convened the committee shall inform the school district of the final placement decision for the youth.~~

26 ~~———(6) The department may not disburse funds from the budget allocation subaccounts~~ ACCOUNTS
27 established pursuant to [section 16] [SECTION 15] unless the youth court has established a youth placement
28 committee as provided in this section."

29

30 ~~———Section 3. Section 41-5-122, MCA, is amended to read:~~

1 ~~—————"41-5-122. Duties of the youth placement committee. A youth placement committee shall:~~
 2 ~~————(1) review all information relevant to the placement of a youth referred or committed to the~~
 3 ~~department;~~
 4 ~~————(2) consider available resources appropriate to meet the needs of the youth;~~
 5 ~~————(3) consider the treatment recommendations of any professional person who has evaluated the~~
 6 ~~youth;~~
 7 ~~————(4) consider options for the financial support of the youth;~~
 8 ~~————(5) recommend in writing to the youth court judge department an appropriate placement for the~~
 9 ~~youth, considering the age and treatment needs of the youth and the relative costs of care in facilities~~
 10 ~~considered appropriate for placement. A committee shall consider placement in a licensed facility, at a~~
 11 ~~state youth correctional facility, or with a parent, other family member, or guardian.~~
 12 ~~————(6) review temporary and emergency placements as required under 41-5-124; and~~
 13 ~~————(7) conduct placement reviews at least semiannually every 6 months and at other times as~~
 14 ~~requested by the youth court department."~~

15

16 ~~————Section 4. Section 41-5-123, MCA, is amended to read:~~

17 ~~————"41-5-123. Youth placement committee to submit recommendation to department -- acceptance~~
 18 ~~or rejection of recommendation by department youth court. (1) Prior to commitment of a youth to the~~
 19 ~~custody of the youth court probation office or the department pursuant to 41-5-1512 or 41-5-1513, a~~
 20 ~~youth placement committee must be convened. The committee shall submit in writing to the department~~
 21 ~~and to the youth court judge its primary and alternative recommendations for placement of the youth.~~
 22 ~~————(2) If the department accepts either of the committee's recommendations, it shall promptly notify~~
 23 ~~the committee in writing. The committee shall first consider placement of the youth in a community-based~~
 24 ~~facility or program and shall give priority to placement of the youth in a facility or program located in the~~
 25 ~~state of Montana.~~
 26 ~~————(3) If in-state alternatives for placement of the youth are inappropriate, the committee may~~
 27 ~~recommend an out-of-state placement. The committee shall state in its recommendation the reasons why~~
 28 ~~in-state services are not appropriate.~~
 29 ~~————(4) The primary and alternative recommendations of the youth placement committee must be for~~
 30 ~~similar facilities or programs. The youth court may require a youth placement committee to reevaluate a~~

1 ~~youth if the recommended placements are dissimilar.~~

2 ~~—— (3)(5) If the department youth court rejects both of the committee's recommendations, it shall~~
 3 ~~promptly notify the committee in writing of the reasons for rejecting the recommendations and shall make~~
 4 ~~an appropriate placement for the youth.~~

5 ~~—— (4)(6) Within 72 hours after making a decision on a placement or change of placement, the~~
 6 ~~department shall notify the youth court of the decision and of the placement or change of placement. The~~
 7 ~~youth court may not order a placement or change of placement that results in a deficit in the budget~~
 8 ~~allocation from the department.~~

9 ~~—— (7) The youth court shall evaluate the cost of the placement or change of placement and ensure~~
 10 ~~that the placement or change of placement will not overspend the budget allocation provided by the~~
 11 ~~department under [section 16] [SECTION 15].~~

12 ~~—— (8) The department shall review and approve all youth placement committee recommendations~~
 13 ~~for out-of-state residential placements. The youth court may not commit or place a youth in any~~
 14 ~~out-of-state program or facility without the express written approval of the department."~~

15

16 ~~—— **Section 5.** Section 41-5-124, MCA, is amended to read:~~

17 ~~—— **"41-5-124. Temporary and emergency placements -- limit.** (1) A temporary placement of a youth~~
 18 ~~in a shelter care facility or an emergency placement of a youth in a youth care facility is exempt from the~~
 19 ~~requirements of 41-5-123.~~

20 ~~—— (2) If a temporary or emergency placement of a youth continues for 45 or more days, the~~
 21 ~~department shall refer the placement of the youth to the appropriate youth placement committee for~~
 22 ~~review. The committee shall make a recommendation for placement to the department youth court in~~
 23 ~~accordance with 41-5-123."~~

24

25 **Section 2.** Section 41-5-203, MCA, is amended to read:

26 **"41-5-203. Jurisdiction of court.** (1) Except as provided in subsection (2) and for cases filed in
 27 the district court under 41-5-206, the court has exclusive original jurisdiction of all proceedings under the
 28 Montana Youth Court Act in which a youth is alleged to be a delinquent youth, a youth in need of
 29 intervention, or a youth in need of care or concerning any person under 21 years of age charged with
 30 having violated any law of the state or any ordinance of a city or town other than a traffic or fish and

1 game law prior to having become 18 years of age.

2 (2) ~~Justice~~ Justices', municipal, and city courts have concurrent jurisdiction with the youth court
3 over all alcoholic beverage, tobacco products, and gambling violations alleged to have been committed by
4 a youth.

5 (3) The court has jurisdiction to:

6 (a) transfer a youth court case to the district court after notice and hearing; ~~and~~

7 (b) with respect to extended jurisdiction juvenile cases:

8 (i) designate a proceeding as an extended jurisdiction juvenile prosecution;

9 (ii) conduct a hearing, receive admissions, and impose upon a youth who is adjudicated as an
10 extended jurisdiction juvenile a sentence that may extend beyond the youth's age of majority;

11 (iii) stay that portion of an extended jurisdiction sentence that is extended beyond a youth's
12 majority, subject to the performance of the juvenile portion of the sentence;

13 (iv) continue, modify, or revoke the stay after notice and hearing;

14 (v) after revocation, transfer execution of the stayed sentence to the department;

15 (vi) transfer supervision of any juvenile sentence if, after notice and hearing, the court determines
16 by a preponderance of the evidence that the juvenile has violated or failed to perform the juvenile portion
17 of an extended jurisdiction sentence; and

18 (vii) transfer a juvenile case to district court after notice and hearing; ~~and~~

19 (c) impose criminal sanctions on a juvenile as authorized by the Extended Jurisdiction Prosecution
20 Act, Title 41, chapter 5, part 16."

21

22 ~~Section 7. Section 41-5-205, MCA, is amended to read:~~

23 ~~"41-5-205. Retention of jurisdiction -- termination. (1) The court may dismiss a petition or~~
24 ~~otherwise terminate jurisdiction on its own motion or on the motion or petition of any interested party at~~
25 ~~any time. Unless terminated by the court and except as provided in subsections (2) and (3), the jurisdiction~~
26 ~~of the court continues until the individual becomes 21 years of age.~~

27 ~~(2) Court jurisdiction terminates when:~~

28 ~~(a) the proceedings are transferred to district court under 41-5-208 or an information is filed~~
29 ~~concerning the offense in district court pursuant to 41-5-206;~~

30 ~~(b) the youth is discharged by the department; or~~

1 ~~—— (c) execution of a sentence is ordered under 41-5-1605(2)(b)(iii) and the supervisory~~
 2 ~~responsibilities are transferred to the district court under 41-5-1605.~~

3 ~~—— (3) The jurisdiction of the court over an extended jurisdiction juvenile, with respect to the offense~~
 4 ~~for which the youth was convicted as an extended jurisdiction juvenile, extends until the offender becomes~~
 5 ~~25 years of age unless the court terminates jurisdiction before that date.~~

6 ~~—— (4) The jurisdiction of the court is not terminated if the department issues a release from~~
 7 ~~supervision due to the expiration of a commitment pursuant to 41-5-1522."~~

8

9 **Section 3.** Section 41-5-206, MCA, is amended to read:

10 **"41-5-206. Filing in district court prior to formal proceedings in youth court.** (1) The county
 11 attorney may, in the county attorney's discretion and in accordance with the procedure provided in
 12 46-11-201, file with the district court a motion for leave to file an information in the district court if:

13 (a) the youth charged was 12 years of age or older at the time of the conduct alleged to be
 14 unlawful and the unlawful act would if it had been committed by an adult constitute:

15 (i) sexual intercourse without consent as defined in 45-5-503;

16 (ii) deliberate homicide as defined in 45-5-102;

17 (iii) mitigated deliberate homicide as defined in 45-5-103;

18 (iv) assault on a peace officer or judicial officer as defined in 45-5-210; or

19 (v) the attempt, as defined in 45-4-103, of or accountability, as provided in 45-2-301, for either
 20 deliberate or mitigated deliberate homicide; or

21 (b) the youth charged was 16 years of age or older at the time of the conduct alleged to be
 22 unlawful and the unlawful act is one or more of the following:

23 (i) negligent homicide as defined in 45-5-104;

24 (ii) arson as defined in 45-6-103;

25 (iii) aggravated assault as defined in 45-5-202;

26 (iv) assault with a weapon as defined in 45-5-213;

27 (v) robbery as defined in 45-5-401;

28 (vi) burglary or aggravated burglary as defined in 45-6-204;

29 (vii) aggravated kidnapping as defined in 45-5-303;

30 (viii) possession of explosives as defined in 45-8-335;

- 1 (ix) criminal distribution of dangerous drugs as defined in 45-9-101;
- 2 (x) criminal production or manufacture of dangerous drugs as defined in 45-9-110;
- 3 (xi) attempt, as defined in 45-4-103, of or accountability, as provided in 45-2-301, for any of the
- 4 acts enumerated in subsections (1)(b)(i) through (1)(b)(iii) and (1)(b)(v) through (1)(b)(xii);
- 5 (xii) use of threat to coerce criminal street gang membership or use of violence to coerce criminal
- 6 street gang membership, as defined in 45-8-403;
- 7 (xiii) escape as defined in 45-7-306.

8 (2) The county attorney shall file with the district court a petition for leave to file an information

9 in district court if the youth was 17 years of age at the time the youth committed an offense listed under

10 subsection (1). ~~The county attorney may file with the district court a petition for leave to file an~~

11 ~~information in district court for an offense not listed in subsection (1) if the offense was committed by a~~

12 ~~youth when the youth was 17 years of age.~~

13 (3) The district court shall grant leave to file the information if it appears from the affidavit or other

14 evidence supplied by the county attorney that there is probable cause to believe that the youth has

15 committed the alleged offense. Within 30 days after leave to file the information is granted, the district

16 court shall conduct a hearing to determine whether the matter must be transferred back to the youth court,

17 unless the hearing is waived by the youth or by the youth's counsel in writing or on the record. The

18 hearing may be continued on request of either party for good cause. The district court may not transfer

19 the case back to the youth court if unless the district court finds, by a preponderance of the evidence,

20 that:

21 (a) a youth court proceeding and disposition will ~~not~~ serve the interests of community protection

22 and;

23 (b) that the nature of the offense does not warrant prosecution in district court; and

24 (c) it would be in the best interests of the youth, and that, considering the seriousness of the

25 ~~offense, the case should remain in the district court if the matter was prosecuted in youth court.~~

26 (4) The filing of an information in district court terminates the jurisdiction of the youth court over

27 the youth with respect to the acts alleged in the information. A youth may not be prosecuted in the district

28 court for a criminal offense originally subject to the jurisdiction of the youth court unless the case has been

29 filed in the district court as provided in this section. A case may be transferred to district court after

30 prosecution as provided in 41-5-208 or 41-5-1605.

1 (5) An offense not enumerated in subsection (1) that arises during the commission of a crime
2 enumerated in subsection (1) may be:

3 (a) tried in youth court;

4 (b) transferred to district court with an offense enumerated in subsection (1) upon motion of the
5 county attorney and order of the district court. The district court shall hold a hearing before deciding the
6 motion.

7 (6) If a youth is found guilty in district court of an offense enumerated in subsection (1), the court
8 shall sentence the youth pursuant to 41-5-2503 and Titles 45 and 46. A youth who is sentenced to the
9 department or a state prison must be evaluated and placed by the department in an appropriate juvenile
10 or adult correctional facility. The department shall confine the youth in an institution that it considers
11 proper, including a state youth correctional facility under the procedures of 52-5-111. However, a youth
12 under 16 years of age may not be confined in a state prison facility. During the period of confinement,
13 school-aged youth with disabilities must be provided an education consistent with the requirements of the
14 federal Individuals With Disabilities Education Act, 20 U.S.C. 1400, et seq.

15 (7) ~~A youth whose~~ If a youth's case is filed in the district court and remains in the district court
16 after the transfer hearing, the youth may ~~not~~ be detained ~~or otherwise placed~~ in a jail or other adult
17 detention facility ~~before~~ pending final disposition of the youth's case ~~unless:~~

18 ~~(a) alternative facilities do not provide adequate security; and~~

19 ~~(b) if the youth is kept in an area that provides physical separation as well as sight and sound~~
20 ~~separation from adults accused or convicted of criminal offenses."~~

21

22 ~~Section 9. Section 41-5-1512, MCA, is amended to read:~~

23 ~~"41-5-1512. Disposition of youth in need of intervention or youth who violate consent~~
24 ~~adjustments. If a youth is found to be a youth in need of intervention or to have violated a consent~~
25 ~~adjustment, the youth court may enter its judgment making one or more of the following dispositions but~~
26 ~~may not order a state or local government entity to pay for care, treatment, intervention, placement, or~~
27 ~~evaluation:~~

28 ~~(1) place the youth on probation. The youth court shall retain jurisdiction in a disposition under~~
29 ~~this subsection.~~

30 ~~(2) place the youth in a residence that ensures that the youth is accountable, that provides for~~

1 rehabilitation, and that protects the public. Before placement, the sentencing judge shall seek and consider
2 placement recommendations from the youth placement committee. The judge may not place the youth in
3 a residence unless the department informs the judge that resources are available for placement of the
4 youth at that residence.

5 ~~—— (3) commit the youth to the department youth court probation for the purposes of funding a
6 private, out-of-home, residential placement subject to the conditions in 41-5-1522. In an order committing
7 a youth to the department youth court probation, the court shall determine whether continuation in the
8 youth's own home would be contrary to the welfare of the youth and whether reasonable efforts have
9 been made to prevent or eliminate the need for removal of the youth from the youth's home. The court
10 shall require a case plan to provide for transition from the out-of-home residential placement back into the
11 community.~~

12 ~~—— (4) order restitution for damages that result from the offense for which the youth is disposed by
13 the youth or by the person that contributed to the delinquency of the youth;~~

14 ~~—— (5) require the performance of community service;~~

15 ~~—— (6) require the youth, the youth's parents or guardians, or the persons having legal custody of the
16 youth to receive counseling services;~~

17 ~~—— (7) require the medical and psychological evaluation of the youth, the youth's parents or
18 guardians, or the persons having legal custody of the youth;~~

19 ~~—— (8) require the parents, guardians, or other persons having legal custody of the youth to furnish
20 services the court may designate;~~

21 ~~—— (9) order further care, treatment, evaluation, or relief that the court considers beneficial to the
22 youth and the community and that does not obligate funding from the department for services outside the
23 state of Montana without the department's approval, except that a youth may not be placed by a youth
24 court in a residential treatment facility as defined in 50-5-101. Only the department may, pursuant to
25 subsection (3) of this section, place a youth in a residential treatment facility.~~

26 ~~—— (10) subject to the provisions of 41-5-1504, commit the youth to a mental health facility if, based
27 upon the testimony of a professional person as defined in 53-21-102, the court finds that the youth is
28 found to be suffering from a mental disorder, as defined in 53-21-102, and meets the criteria in
29 53-21-126(1);~~

30 ~~—— (11) place the youth under home arrest as provided in Title 46, chapter 18, part 10;~~

1 ~~———(12) order confiscation of the youth's driver's license, if the youth has one, by the probation officer~~
2 ~~for a specified period of time, not to exceed 90 days. The probation officer shall notify the department of~~
3 ~~justice of the confiscation and its duration. The department of justice may not enter the confiscation on~~
4 ~~the youth's driving record. The probation officer shall notify the department of justice when the~~
5 ~~confiscated driver's license has been returned to the youth. A youth's driver's license may be confiscated~~
6 ~~under this subsection more than once. The probation officer may, in the probation officer's discretion and~~
7 ~~with the concurrence of a parent or guardian, return a youth's confiscated driver's license before the~~
8 ~~termination of the time period for which it had been confiscated. The confiscation may not be used by an~~
9 ~~insurer as a factor in determining the premium or part of a premium to be paid for motor vehicle insurance~~
10 ~~covering the youth or a vehicle or vehicles driven by the youth, nor may it be used as grounds for denying~~
11 ~~coverage for an accident or other occurrence under an existing policy.~~

12 ~~———(13) order the youth to pay a contribution covering all or a part of the costs for the adjudication,~~
13 ~~disposition, attorney fees for the costs of prosecuting or defending the youth, costs of detention,~~
14 ~~supervision, care, custody, and treatment of the youth, including the costs of counseling;~~

15 ~~———(14) order the youth to pay a contribution covering all or a part of the costs of a victim's~~
16 ~~counseling;~~

17 ~~———(15) defer imposition of sentence for up to 45 days for a placement evaluation at a suitable~~
18 ~~program or facility with the following conditions:~~

19 ~~———(a) The court may not order placement for evaluation at a youth correctional facility of a youth~~
20 ~~who has committed an offense that would not be a criminal offense if committed by an adult or a youth~~
21 ~~who has violated a consent adjustment.~~

22 ~~———(b) The placement for evaluation must be on a space-available basis at the county's expense,~~
23 ~~which is not reimbursable under part 19 of this chapter.~~

24 ~~———(c) The court may require the youth's parents or guardians to pay a contribution covering all or~~
25 ~~a part of the costs of the evaluation if the court determines after an examination of financial ability that~~
26 ~~the parents or guardians are able to pay the contribution. Any remaining unpaid costs of evaluation are the~~
27 ~~financial responsibility of the judicial district of the court that ordered the evaluation.~~

28 ~~———(16) order placement of a youth in a youth assessment center for up to 10 days;~~

29 ~~———(17) order the youth to participate in mediation that is appropriate for the offense committed."~~

30

1 ~~Section 10.~~ Section 41-5-1513, MCA, is amended to read:

2 ~~"41-5-1513. Disposition -- delinquent youth -- restrictions.~~ (1) If a youth is found to be a
3 delinquent youth, the youth court may enter its judgment making one or more of the following dispositions:

4 ~~(a) any one or more of the dispositions provided in 41-5-1512;~~

5 ~~(b) subject to 41-5-1504, 41-5-1512(15)(a), and 41-5-1522, commit the youth to the department~~
6 ~~for placement in a state youth correctional facility and recommend to the department that the youth not~~
7 ~~be released until the youth reaches 18 years of age. The court may not place a youth adjudicated~~
8 ~~delinquent in a state youth correctional facility for an offense that would be a misdemeanor if committed~~
9 ~~by an adult unless the court finds that the youth presents a danger to the public safety and that the~~
10 ~~placement is recommended by a mental health professional after evaluation of the youth. A youth who~~
11 ~~violates the conditions of probation may not be committed to a state youth correctional facility unless the~~
12 ~~probation resulted from an adjudication for an offense that would be a felony if committed by an adult~~
13 ~~UNLESS THE COURT FINDS THAT THE YOUTH PRESENTS A DANGER TO THE PUBLIC SAFETY AND THAT THE PLACEMENT IS~~
14 ~~RECOMMENDED BY A MENTAL HEALTH PROFESSIONAL AFTER EVALUATION OF THE YOUTH.~~

15 ~~(c) require a youth found to be a delinquent youth, as the result of the commission of an offense~~
16 ~~that would be a sexual offense or violent offense, as defined in 46-23-502, if committed by an adult, to~~
17 ~~register as a sexual or violent offender pursuant to Title 46, chapter 23, part 5. The youth court shall~~
18 ~~retain jurisdiction in a disposition under this subsection.~~

19 ~~(d) in the case of a delinquent youth who is determined by the court to be a serious juvenile~~
20 ~~offender, the judge may specify that the youth be placed in a state youth correctional facility, subject to~~
21 ~~the provisions of subsection (2), if the judge finds that the placement is necessary for the protection of~~
22 ~~the public. The court may order the department to notify the court within 5 working days before the~~
23 ~~proposed release of a youth from a youth correctional facility. Once a youth is committed to the~~
24 ~~department for placement in a state youth correctional facility, the department is responsible for~~
25 ~~determining an appropriate date of release or an alternative placement.~~

26 ~~(e) impose a fine as authorized by law if the violation alleged would constitute a criminal offense~~
27 ~~if committed by an adult.~~

28 ~~(2) If a youth has been adjudicated for a sex offense, the youth court may require completion of~~
29 ~~sex offender treatment before a youth is discharged.~~

30 ~~(3) The court may not order a state or local government entity to pay for care, treatment,~~

1 intervention, placement, or evaluation."

2

3 ~~Section 11.~~ Section 52-5-109, MCA, is amended to read:

4 ~~"52-5-109. Commitment expenses -- arrangement for transportation.~~ The expenses of committing
5 a youth to the Pine Hills ~~a state~~ youth correctional facility or the department of corrections and ~~the~~
6 ~~expenses of~~ transporting the youth to the Pine Hills ~~a state~~ youth correctional facility or the place
7 designated by the department for it to receive custody ~~a private, out-of-home residential placement, either~~
8 ~~in the state of Montana or in another state,~~ as well as the expense of returning the youth to the county
9 of residence ~~commitment,~~ must be borne by the county of residence ~~department YOUTH COURT and paid~~
10 ~~for out of the account established under [section 16] [SECTION 15].~~ The district judge ~~youth court probation~~
11 ~~office~~ shall arrange for transportation of the youth to ~~and from~~ the place where the department has
12 directed that it will receive custody of the youth ~~youth court has ordered that the youth be placed."~~

13

14 **Section 4.** Section 52-5-129, MCA, is amended to read:

15 **"52-5-129. Hearing on alleged violation of parole agreement -- right to appeal outcome.** (1) When
16 it is alleged by a juvenile parole officer that a youth has violated the terms of the youth's parole
17 agreement, the youth must be granted a hearing at the site of the alleged violation or in the county in
18 which the youth is residing or is found within 10 days after notice has been served on the youth or the
19 youth is detained, whichever is earlier. At the discretion of the hearings officer, this hearing may be held
20 by means of interactive video transmission. The purpose of the hearing is to determine whether the youth
21 committed the violation and, if so, whether the violation is of such a nature that the youth should be
22 returned to ~~the~~ a youth correctional facility ~~from which the youth was released~~ or whether a different plan
23 for custody and supervision of the youth should be pursued by the department of corrections.

24 (2) PENDING THE HEARING ON A VIOLATION AND PENDING THE DEPARTMENT'S DECISION, A YOUTH MAY NOT BE
25 DETAINED EXCEPT WHEN THE YOUTH'S DETENTION OR CARE IS REQUIRED TO PROTECT THE PERSON OR PROPERTY OF THE
26 YOUTH OR OF OTHERS OR WHEN THE YOUTH MAY ABSCOND OR BE REMOVED FROM THE COMMUNITY. THE DEPARTMENT
27 SHALL DETERMINE THE PLACE AND MANNER OF DETENTION PURSUANT TO 41-5-348 AND IS RESPONSIBLE FOR THE COST
28 OF THE DETENTION. PROCEDURES FOR TAKING A YOUTH INTO CUSTODY AND DETENTION OF A YOUTH CHARGED WITH
29 VIOLATION OF THE YOUTH'S PAROLE AGREEMENT ARE AS PROVIDED IN 41-5-321.

30 ~~(2)(3)~~ (3) The youth, upon advice of an attorney, may waive the right to a hearing.

1 ~~(3)~~(4) With regard to this hearing, the youth must be given:

2 (a) written notice of the alleged violation of the parole agreement, including notice of the purpose
3 of the hearing;

4 (b) a disclosure of the evidence against the youth and the facts constituting the alleged violation;

5 (c) the opportunity to be heard in person or by interactive video transmission and to present
6 witnesses and documentary evidence to controvert the evidence against the youth and to show that there
7 are compelling reasons that justify or mitigate the violation;

8 (d) the opportunity to have the hearings officer subpoena witnesses;

9 (e) the right to confront and cross-examine adverse witnesses in person or by means of interactive
10 video transmission;

11 (f) the right to be represented by an attorney;

12 (g) a record of the hearing; and

13 (h) notice that a written statement as to the evidence relied upon in reaching the final decision and
14 the reasons for the final decision will be provided by the hearings officer.

15 ~~(4)~~(5) The department shall provide a hearings officer to conduct the hearing. The department shall
16 adopt rules necessary to effect a prompt and full review.

17 ~~(5)~~(6) If the hearings officer finds, by a preponderance of the evidence, that the youth did in fact
18 commit the violation, the hearings officer shall make a ~~recommendation to the department~~ DECISION for the
19 placement of the youth. In making this ~~recommendation~~ DECISION, the hearings officer may consider
20 mitigating or aggravating circumstances. The youth or the youth's attorney may appeal the hearings
21 officer's decision to the department director. The appeal must be made in writing within 5 days of the
22 hearing. The department director or designee shall grant or deny the appeal within 5 days of receipt of the
23 appeal.

24 ~~(6)~~(7) The youth may appeal the decision of the department director to the district court of the
25 county in which the hearing was held by serving and filing a notice of appeal with the court within 10 days
26 of the department director's decision. The youth may obtain a written transcript of the hearing from the
27 department by giving written notice of appeal. The district court, upon receipt of a notice of appeal, shall
28 order the department to promptly certify to the court a record of all proceedings before the department
29 and shall proceed to a prompt hearing on the appeal based upon the record on appeal. The decision of the
30 department may not be altered except for abuse of discretion or manifest injustice.

1 ~~(7) Pending the hearing on a violation and pending the department's decision, a youth may not~~
 2 ~~be detained except when the youth's detention or care is required to protect the person or property of the~~
 3 ~~youth or of others or the youth may abscond or be removed from the community. The department shall~~
 4 ~~determine the place and manner of detention pursuant to 41-5-348 and is responsible for the cost of the~~
 5 ~~detention. Procedures for taking into custody and detention of a youth charged with violation of the~~
 6 ~~youth's parole agreement are as provided in 41-5-321.~~

7 (8) If the decision is made UNDER SUBSECTION (6) IS to return the youth to ~~the~~ A youth correctional
 8 facility ~~from which the youth was released~~ and the youth appeals that decision, the youth shall await the
 9 outcome of the appeal at the facility.

10 ~~(9) If a youth is placed in an alternative placement due to overcrowding at a state youth~~
 11 ~~correctional facility, the state youth correctional facility from which the youth was diverted must be~~
 12 ~~considered the state youth correctional facility from which the youth was released.~~

13 (9) IF A DECISION IS MADE UNDER SUBSECTION (6) TO REVOKE THE PAROLE OF A YOUTH WHO WAS PLACED IN
 14 AND RELEASED FROM AN ALTERNATIVE FACILITY UNDER 41-5-355 BECAUSE OF OVERCROWDING IN A STATE YOUTH
 15 CORRECTIONAL FACILITY, THE YOUTH MAY BE PLACED IN A STATE YOUTH CORRECTIONAL FACILITY IF THE STATE YOUTH
 16 CORRECTIONAL FACILITY IS NO LONGER OVERCROWDED."

17
 18 ~~NEW SECTION. Section 13. Short title. [Sections 14 through 19] [SECTIONS 13 THROUGH 18] may~~
 19 ~~be cited as the "Juvenile Delinquency Intervention Act".~~

20
 21 ~~NEW SECTION. Section 14. Purpose. The purposes of [sections 14 through 19] [SECTIONS 13~~
 22 ~~THROUGH 18] are to:~~

- 23 ~~(1) provide an alternate method of funding juvenile placement and services;~~
 24 ~~(2) increase the ability of local government to respond to juvenile delinquency through early~~
 25 ~~intervention and expanded community alternatives; and~~
 26 ~~(3) enhance the ability of local government to control costs.~~

27
 28 ~~NEW SECTION. Section 15. Establishment of program -- department duties. (1) (a) There is a~~
 29 ~~juvenile delinquency intervention program.~~

30 ~~(b) There is an account in the state special revenue fund. The money in the account is statutorily~~

1 appropriated, as provided in 17-7-502, to the department to be used to administer [sections 14 through
2 19].

3 ~~———(2) The department shall create a subaccount AN ACCOUNT for each youth court and use data
4 gathered during the administration of the program to determine the amount of funding to be placed in each
5 subaccount ACCOUNT. The subaccounts ACCOUNTS must be used by the youth courts for funding in-state
6 and out-of-state placement and services.~~

7 ~~———(3) The department shall withhold a portion of the funds allocated to each subaccount to provide
8 a cost containment fund for judicial districts that experience youth crime rates that exceed the youth crime
9 rates projected by the department.~~

10 ~~———(4)(3) The department and the youth court shall monitor the youth court's subaccount ACCOUNT
11 to ensure that the youth court does not exceed its allocated subaccount ACCOUNT budget.~~

12 ~~———(5)(4) Subaccount ACCOUNT funds not used by the youth court for placements must be distributed
13 to that youth court in accordance with rules adopted by the department to be used for placement
14 alternatives and early intervention alternatives.~~

15 ~~———(6)(5) The department shall provide technical assistance to each youth court for the monitoring
16 of subaccount ACCOUNT funds and the evaluation and development of placement alternatives and effective
17 intervention programming.~~

18 ~~———(7)(6) The department shall review and monitor each youth court to enable the development of
19 placement alternatives by the youth courts and the development of early intervention alternatives by the
20 youth courts. The department shall report to the legislature on the results of its monitoring.~~

21 ~~———(8) The department shall collect data and coordinate with the board of crime control to study and
22 develop a plan to mitigate overrepresentation of minority youth in the youth court system.~~

23

24 ~~———NEW SECTION. Section 16. Youth court duties. (1) Each youth court shall:~~

25 ~~———(a) use available resources to develop alternatives for the placement of youth;~~

26 ~~———(b) use available resources for early intervention strategies for troubled youth;~~

27 ~~———(c) use a risk assessment instrument approved by the department for the measurement of risk
28 assessment and effectiveness of treatment or intervention for youth adjudicated pursuant to 41-5-1512
29 or 41-5-1513;~~

30 ~~———(d) submit quarterly reports to the department documenting the use of diversionary and prevention~~

1 ~~programs and the use of placement services;~~

2 ~~—— (c) participate in the cost containment review panel established under [section 18] SECTION 17;~~

3 ~~and~~

4 ~~—— (f) provide the department and the legislative auditor with access to all records maintained by the~~

5 ~~youth court.~~

6 ~~—— (2) A youth court may not order a local government or a state governmental entity to pay the~~

7 ~~costs of placement of a youth under [sections 14 through 19] SECTIONS 13 THROUGH 18 if the local~~

8 ~~government or state governmental entity informs the youth court that its current budget does not contain~~

9 ~~funds that will pay for the placement.~~

10

11 ~~—— NEW SECTION. Section 17. Cost containment review panel. (1) The department shall establish~~

12 ~~a cost containment review panel to administer the cost containment fund reserved by the department~~

13 ~~pursuant to [section 16].~~

14 ~~—— (2) The cost containment review panel shall consist of the following members appointed by the~~

15 ~~department:~~

16 ~~—— (a) two members from the department of corrections;~~

17 ~~—— (b) a member from the department of public health and human services;~~

18 ~~—— (c) a representative from the field of mental health;~~

19 ~~—— (d) a youth court judge;~~

20 ~~—— (e) a chief juvenile probation officer; and~~

21 ~~—— (f) a county commissioner.~~

22 ~~—— (3) Decisions of the cost containment review panel must be by majority vote.~~

23 ~~—— (4) The cost containment review panel shall determine the distribution of funds in the cost~~

24 ~~containment fund APPROPRIATED FOR PURPOSES OF THIS SECTION.~~

25 ~~—— (5) The cost containment review panel may evaluate the effectiveness of new or innovative~~

26 ~~programs for the treatment of troubled youth and make recommendations to the youth courts and the~~

27 ~~department.~~

28 ~~—— (6) A youth court that exceeds its subaccount ACCOUNT allocation under [section 16] SECTION 15~~

29 ~~may request funds from the cost containment fund REVIEW PANEL. If a panel member referred to in~~

30 ~~subsections (2)(d) through (2)(f) is a resident of or is employed in the judicial district of a youth court~~

1 ~~requesting cost containment funds, the panel member may not serve as a panel member for purposes of~~
 2 ~~a decision regarding disbursement of cost containment funds to the youth court and an alternate panel~~
 3 ~~member must be appointed by the department for purposes of the decision.~~

4

5 ~~NEW SECTION. Section 18. Rulemaking authority.~~ (1) ~~The department shall adopt rules~~
 6 ~~necessary for the implementation of [sections 14 through 19] [SECTIONS 13 THROUGH 18], including but not~~
 7 ~~limited to:~~

8 ~~(a) defining and establishing criteria for early intervention regarding troubled youth and the~~
 9 ~~development of community alternatives;~~

10 ~~(b) evaluating each youth court to ensure the court is using early intervention strategies and~~
 11 ~~community alternatives and is effectively controlling costs for youth placements;~~

12 ~~(c) distributing unused subaccount ACCOUNT funds to the youth courts;~~

13 ~~(d) determining the allocation of funds to the subaccounts ACCOUNTS for the youth courts;~~

14 ~~(e) determining the amount of funds to be withheld by the department as cost containment funds;~~

15 ~~(f) monitoring and auditing each youth court to ensure that subaccount ACCOUNT funds are being~~
 16 ~~used as required by law;~~

17 ~~(g) distributing cost containment funds to youth courts;~~

18 ~~(h) monitoring youth courts to promote consistency and uniformity in the placement of juvenile~~
 19 ~~offenders;~~

20 ~~(i) developing procedures for the operation of the cost containment review panel;~~

21 ~~(j) developing of one or more risk assessment tools; AND~~

22 ~~(k) developing procedures for mitigating overrepresentation of minority youth in the youth court~~
 23 ~~system; and~~

24 ~~(l)(k) developing procedures for removing youth with serious mental illness from the juvenile~~
 25 ~~correctional system.~~

26 ~~(2) It is the intent of the legislature that rules adopted by the department encourage the use of~~
 27 ~~local, regional, and state resources for the placement of troubled youth.~~

28

29 ~~NEW SECTION. Section 19. Allocation of first-year funding.~~ The department of corrections shall
 30 ~~use data gathered during the administration of the intervention in delinquency pilot program established~~

1 under section 73, Chapter 550, Laws of 1997, to assist in determining the allocations to the subaccounts
 2 ~~ACCOUNTS~~ created under [section 16] ~~[SECTION 15]~~ during the first year of operation of the juvenile
 3 delinquency intervention program established by [section 16] ~~[SECTION 15]~~.

4

5 ~~NEW SECTION. SECTION 20. COST CONTAINMENT FUND -- ALLOCATION OF APPROPRIATED FUNDS -- USE OF~~
 6 ~~FUNDS. THE DEPARTMENT OF CORRECTIONS SHALL ESTABLISH A COST CONTAINMENT FUND FOR THE PURPOSES OF~~
 7 ~~[SECTION 17] AND SHALL ALLOCATE TO THE FUND \$600,000 EACH FISCAL YEAR FROM THE FUNDS APPROPRIATED FOR~~
 8 ~~THE JUVENILE PLACEMENT BUDGET FOR THE FISCAL BIENNIUM BEGINNING JULY 1, 2001, TO BE USED FOR THE PURPOSES~~
 9 ~~OF [SECTION 17].~~

10

11 ~~NEW SECTION. SECTION 21. Fund transfer.~~ There is transferred each year \$800,000 from the
 12 general fund to the special revenue fund account established in [section 16].

13

14 ~~NEW SECTION. SECTION 20. STATUTORY APPROPRIATION. THERE IS STATUTORILY APPROPRIATED, AS~~
 15 ~~PROVIDED IN 17-7-502, \$800,000 FROM THE GENERAL FUND IN EACH FISCAL YEAR TO THE DEPARTMENT OF~~
 16 ~~CORRECTIONS TO BE USED TO ADMINISTER THE COST CONTAINMENT PROGRAM ESTABLISHED IN [SECTION 18].~~

17

18 ~~NEW SECTION. SECTION 21. PROGRAM PROGRESS AND REPORT. THE DEPARTMENT OF CORRECTIONS SHALL~~
 19 ~~DEVELOP A SYSTEM OF OUTCOME MEASURES DURING THE FIRST 6 MONTHS OF THE OPERATION OF THE PROGRAM~~
 20 ~~ESTABLISHED IN [SECTION 16] [SECTION 15], USE THE SYSTEM TO EVALUATE THE PROGRESS OF THE PROGRAM, AND~~
 21 ~~REPORT TO THE LEGISLATURE IN THE MANNER PROVIDED IN 5-11-210.~~

22

23 ~~NEW SECTION. SECTION 22. Codification instruction.~~ [Sections 14 through 19] ~~[SECTIONS 13~~
 24 ~~THROUGH 18]~~ are intended to be codified as an integral part of Title 41, chapter 5, and the provisions of
 25 Title 41, chapter 5, apply to [sections 14 through 19] ~~[SECTIONS 13 THROUGH 18]~~.

26

27 ~~NEW SECTION. SECTION 23. COORDINATION INSTRUCTION. (1) IF SENATE BILL NO. 386 IS NOT PASSED~~
 28 ~~AND APPROVED, THEN:~~

29 ~~(A) [SECTIONS 2 THROUGH 5, 9 THROUGH 11, AND 13 THROUGH 22 OF THIS ACT] ARE VOID;~~

30 ~~(B) SECTION 2, CHAPTER 161, LAWS OF 1999, IS AMENDED TO READ:~~

- 1 ~~—————"Section 2. Section 82, Chapter 550, Laws of 1997, is amended to read:~~
- 2 ~~—————"Section 82. Termination. [Section 73] terminates December 31, 1998 2000 2002.""; AND~~
- 3 ~~————(C) SECTION 82, CHAPTER 550, LAWS OF 1997, IS AMENDED TO READ:~~
- 4 ~~————"Section 82. Termination. [Section 73] terminates December 31, 1998 2002."~~;
- 5 ~~————(2) IF SENATE BILL NO. 386 AND [THIS ACT] ARE BOTH PASSED AND APPROVED, THEN:~~
- 6 ~~————(A) THE AMENDMENT TO SUBSECTION (11) OF 41-5-103 MADE BY [SECTION 1 OF THIS ACT] IS VOID;~~
- 7 ~~————(B) [SECTION 2 OF THIS ACT] IS VOID AND 41-5-121 IS AMENDED TO READ:~~
- 8 ~~————"Section 2. Section 41-5-121, MCA, is amended to read:~~
- 9 ~~————"41-5-121. Youth placement committees -- composition. (1) In each judicial district, the~~
- 10 ~~department shall establish a youth placement committee for the purposes of:~~
- 11 ~~————(a) recommending an appropriate placement of a youth referred to the department under~~
- 12 ~~41-5-1512 and 41-5-1513; or~~
- 13 ~~————(b) recommending available community services or alternative placements whenever a change is~~
- 14 ~~required in the placement of a youth who is currently in the custody of the department under 41-5-1512~~
- 15 ~~or 41-5-1513. However, the committee may not substitute its judgment for that of the superintendent of~~
- 16 ~~a state youth correctional facility regarding the discharge of a youth from the facility.~~
- 17 ~~————(2) The committee consists of not less than five members and must include persons who are~~
- 18 ~~knowledgeable about the youth, treatment and placement options, and other resources appropriate to~~
- 19 ~~address the needs of the youth. Members may include:~~
- 20 ~~————(a) two representatives of the department;~~
- 21 ~~————(b) a representative of the department of public health and human services;~~
- 22 ~~————(c) either the chief probation officer or the youth's probation officer;~~
- 23 ~~————(d) a mental health professional;~~
- 24 ~~————(e) a representative of a school district located within the boundaries of the judicial district who~~
- 25 ~~must have personal knowledge of and experience with the youth;~~
- 26 ~~————(f) if an Indian child or children are involved, someone, preferably an Indian person, knowledgeable~~
- 27 ~~about Indian culture and family matters;~~
- 28 ~~————(g) a parent or guardian; and~~
- 29 ~~————(h) a youth services provider.~~
- 30 ~~————(3) Committee members serve without compensation.~~

1 ~~—— (4) Notwithstanding the provisions of 41-5-123, the committee may be convened by the~~
 2 ~~department or the probation officer of the youth court.~~

3 ~~—— (5) If a representative of the school district within the boundaries of which the youth is~~
 4 ~~recommended to be placed and will be attending school is not included on the committee, the person who~~
 5 ~~convened the committee shall inform the school district of the final placement decision for the youth.~~

6 ~~—— (6) The department may not disburse funds from the budget allocation accounts established~~
 7 ~~pursuant to [section 1 of Senate Bill No. 386] unless the youth court has established a youth placement~~
 8 ~~committee as provided in this section."~~

9 ~~—— (c) [SECTIONS 3 THROUGH 5, 11, AND 13 THROUGH 22 OF THIS ACT] ARE VOID;~~

10 ~~—— (d) [SECTION 9 OF THIS ACT] IS VOID AND 41-5-1512 IS AMENDED TO READ:~~

11 ~~—— "Section 6. Section 41-5-1512, MCA, is amended to read:~~

12 ~~—— "41-5-1512. **Disposition of youth in need of intervention or youth who violate consent**~~
 13 ~~**adjustments.** (1) If a youth is found to be a youth in need of intervention or to have violated a consent~~
 14 ~~adjustment, the youth court may enter its judgment making one or more of the following dispositions:~~

15 ~~—— (1)(a) place the youth on probation. The youth court shall retain jurisdiction in a disposition under~~
 16 ~~this subsection.~~

17 ~~—— (2)(b) place the youth in a residence that ensures that the youth is accountable, that provides for~~
 18 ~~rehabilitation, and that protects the public. Before placement, the sentencing judge shall seek and consider~~
 19 ~~placement recommendations from the youth placement committee. The judge may not place the youth in~~
 20 ~~a residence unless the department informs the judge that resources are available for placement of the~~
 21 ~~youth at that residence.~~

22 ~~—— (3)(c) commit the youth to the department for the purposes of funding a private, out-of-home,~~
 23 ~~residential placement subject to the conditions in 41-5-1522. In an order committing a youth to the~~
 24 ~~department, the court shall determine whether continuation in the youth's own home would be contrary~~
 25 ~~to the welfare of the youth and whether reasonable efforts have been made to prevent or eliminate the~~
 26 ~~need for removal of the youth from the youth's home.~~

27 ~~—— (4)(d) order restitution for damages that result from the offense for which the youth is disposed~~
 28 ~~by the youth or by the person that contributed to the delinquency of the youth;~~

29 ~~—— (5)(e) require the performance of community service;~~

30 ~~—— (6)(f) require the youth, the youth's parents or guardians, or the persons having legal custody of~~

1 the youth to receive counseling services;

2 ~~———(7)(g) require the medical and psychological evaluation of the youth, the youth's parents or~~
3 ~~guardians, or the persons having legal custody of the youth;~~

4 ~~———(8)(h) require the parents, guardians, or other persons having legal custody of the youth to furnish~~
5 ~~services the court may designate;~~

6 ~~———(9)(i) order further care, treatment, evaluation, or relief that the court considers beneficial to the~~
7 ~~youth and the community and that does not obligate funding from the department for services outside the~~
8 ~~state of Montana without the department's approval, except that a youth may not be placed by a youth~~
9 ~~court in a residential treatment facility as defined in 50-5-101. Only the department may, pursuant to~~
10 ~~subsection (3) of this section, place a youth in a residential treatment facility.~~

11 ~~———(10)(j) subject to the provisions of 41-5-1504, commit the youth to a mental health facility if,~~
12 ~~based upon the testimony of a professional person as defined in 53-21-102, the court finds that the youth~~
13 ~~is found to be suffering from a mental disorder, as defined in 53-21-102, and meets the criteria in~~
14 ~~53-21-126(1);~~

15 ~~———(11)(k) place the youth under home arrest as provided in Title 46, chapter 18, part 10;~~

16 ~~———(12)(l) order confiscation of the youth's driver's license, if the youth has one, by the probation~~
17 ~~officer for a specified period of time, not to exceed 90 days. The probation officer shall notify the~~
18 ~~department of justice of the confiscation and its duration. The department of justice may not enter the~~
19 ~~confiscation on the youth's driving record. The probation officer shall notify the department of justice~~
20 ~~when the confiscated driver's license has been returned to the youth. A youth's driver's license may be~~
21 ~~confiscated under this subsection more than once. The probation officer may, in the probation officer's~~
22 ~~discretion and with the concurrence of a parent or guardian, return a youth's confiscated driver's license~~
23 ~~before the termination of the time period for which it had been confiscated. The confiscation may not be~~
24 ~~used by an insurer as a factor in determining the premium or part of a premium to be paid for motor vehicle~~
25 ~~insurance covering the youth or a vehicle or vehicles driven by the youth, nor may it be used as grounds~~
26 ~~for denying coverage for an accident or other occurrence under an existing policy.~~

27 ~~———(13)(m) order the youth to pay a contribution covering all or a part of the costs for the adjudication,~~
28 ~~disposition, attorney fees for the costs of prosecuting or defending the youth, costs of detention,~~
29 ~~supervision, care, custody, and treatment of the youth, including the costs of counseling;~~

30 ~~———(14)(n) order the youth to pay a contribution covering all or a part of the costs of a victim's~~

1 counseling;

2 ~~———— (15)(o) defer imposition of sentence for up to 45 days for a placement evaluation at a suitable~~
3 ~~program or facility with the following conditions:~~

4 ~~———— (a)(i) The court may not order placement for evaluation at a youth correctional facility of a youth~~
5 ~~who has committed an offense that would not be a criminal offense if committed by an adult or a youth~~
6 ~~who has violated a consent adjustment.~~

7 ~~———— (b)(ii) The placement for evaluation must be on a space-available basis at the county's expense,~~
8 ~~which is not reimbursable under part 19 of this chapter.~~

9 ~~———— (c)(iii) The court may require the youth's parents or guardians to pay a contribution covering all~~
10 ~~or a part of the costs of the evaluation if the court determines after an examination of financial ability that~~
11 ~~the parents or guardians are able to pay the contribution. Any remaining unpaid costs of evaluation are the~~
12 ~~financial responsibility of the judicial district of the court that ordered the evaluation.~~

13 ~~———— (16)(p) order placement of a youth in a youth assessment center for up to 10 days;~~

14 ~~———— (17)(q) order the youth to participate in mediation that is appropriate for the offense committed.~~

15 ~~———— (2) The costs of dispositions not paid as specified by subsection (1) may be paid out of the~~
16 ~~accounts established by [section 1 of Senate Bill No. 386] if the department has created an account for~~
17 ~~a judicial district under that section. If the department has not created an account for a judicial district~~
18 ~~under [section 1 of Senate Bill No. 386], costs of dispositions may be paid out of funds appropriated to~~
19 ~~the department for the juvenile placement budget."";~~

20 ~~———— (E) THE NEW SUBSECTION (3) ADDED TO 41-5-1513 BY [SECTION 10 OF THIS ACT] IS VOID AND 41-5-1513~~
21 ~~IS AMENDED BY ADDING A NEW SUBSECTION (3) THAT READS AS FOLLOWS:~~

22 ~~———— "(3) The costs of dispositions under this section, other than costs for a placement in a state youth~~
23 ~~correctional facility, may be paid out of the accounts established by [section 1 of Senate Bill No. 386] if~~
24 ~~the department has created an account for a judicial district under that section. If the department has not~~
25 ~~created an account for a judicial district under [section 1 of Senate Bill No. 386], costs of dispositions~~
26 ~~under this section, other than costs for placement in a state youth correctional facility, may be paid out~~
27 ~~of funds appropriated to the department for the juvenile placement budget.""; AND~~

28 ~~———— (F) THE CODE COMMISSIONER IS INSTRUCTED TO CORRECT ANY INTERNAL REFERENCES RENDERED ERRONEOUS BY~~
29 ~~THE AMENDMENT TO 41-5-1512, INCLUDING REFERENCES IN 41-5-103, 41-5-1503, AND 41-5-1513.~~

30

1 NEW SECTION. **Section 5. Severability.** If a part of [this act] is invalid, all valid parts that are
2 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its
3 applications, the part remains in effect in all valid applications that are severable from the invalid
4 applications.

5

6 NEW SECTION. **Section 6. Effective date.** [This act] is effective July 1, 2001.

7

- END -